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TO THE SELECT COMMITTEE

ON MUNICIPAL LAW.

GENTLEMEN:

I would like at the opening to emphasize that the Brief which I am presenting to yourselves is prepared in my capacity as a private citizen. I do not represent any client. What I say here has not been endorsed by any Association, or group of any kind whatsoever, and I must take complete responsibility for what will follow.

I would suggest that the centre of the municipal problems in Ontario, and the condition from which most of the troubles of the municipalities stem, is twofold. Firstly, that our system of assessment is too rigid, and does not equitably distribute the burden among municipal taxpayers. Secondly, that different from all other taxation, in this country the municipal tax rate makes no provision for ability to pay. In fact, it bears most heavily on those at the lower end of the income scale.

I would propose two reforms. Firstly, that the assessment, at least for residential farm and commercial properties, be based entirely, or almost entirely, on rental capitalization. Secondly, that municipal taxes should be graduated in somewhat the same manner as the Income Tax is graduated, thus bringing the concept of ability to pay into the municipal tax field.

Dealing with the first problem, I would suggest that the present system, relying to such a large extent as it does on replacement value, with, of course, other factors, is not flexible enough for our modern society, and does not quickly reflect in the assessment rolls changing values of neighborhoods as one goes up and another goes down, or changes in the public demand (which, of course, decides the value) for various types of structures.

I would suggest that the real value of any building or lands is the income, actual or potential, which it will produce, and that in the case of residential, commercial and farm, the capitalized rental value on a ten year basis is the proper assessment.

I believe that such rentals are more sensitive to changing conditions within a municipality, and thus will more quickly reflect in the Assessment Roll the actual condition of various sections of the municipality, and so do justice between the various members of the same municipality.

I realize that some attempt has been made to use rental capitalization in the so-called manual system of assessment, which is largely used in Ontario. Unfortunately, however, the rental factor in the manual system of assessment has little or no relationship to actual rentals. This was not the purpose of those who set up

the system, but in practice in most municipalities the rental factor has been applied in one of two artificial ways.

The one has been the use of tables, which purport to show that a building of a certain value per square foot or cubic foot will rent for a certain figure, without any regard for what the actual conditions are in a specific neighborhood, and in respect to a specific building.

I well remember a few years ago I represented a municipality of Kent County in an Equalization By-law dispute under what is now Section 96 of the Assessment Act. The manual system of assessment was used, and expert witnesses for the County purported to use a rental factor from a table which had been prepared (if my memory is correct) in connection with the Town of Cobourg. It was suggested that if a building of a certain type and value had a rental of a certain figure in Cobourg, then it should automatically follow that a similar type of building in Kent County should and would rent at approximately the same figure as in Cobourg. Such an approach completely defeats the whole purpose of the rental capitalization system of assessing, whose greatest advantage is the speed and accuracy with which it will measure changing values within the same community, and between various communities.

The other method, by which the rental factor in manual assessing has been reduced to a nullity, is the widespread practice of assessment offices in Ontario using a more or less arbitrary rental factor to adjust the assessment, upwards or downwards, after they have calculated replacement value, and to bring the assessment of a particular building into harmony with the Assessor's opinion of what it should be. This may not result in any great injustice to the owner, but it is certainly reducing the rental factor to pretty much of a farce.

My suggestion would be that in cases of residential, commercial and farm properties, the Statute should be amended to make rental capitalization the only, or at least principal factor in arriving at valuation, and that such rental must be either the actual rental of the premises where there is such rental, or in other cases, where they are owner occupied, a rental such as similar property in the neighborhood commands.

I would suggest that the concept of arms-length transactions be imported from the Income Tax Act, and that where there is an actual rental, and it is an arm's length transaction, then the onus should always be on the municipality if it wishes to dispute the rental in question. If, on the other hand, tenant and landlord are relatives, or for some other reason the transaction falls within a type that could not be described as an arm's length transaction, then the owner would have the onus on him of justifying the rental as being proper.

boarding houses?

I believe that such method of assessment would actually be much simpler than the present, and more satisfactory to the general public. It would be to some extent self policing. Most individuals in a neighborhood have a pretty fair idea of what property in that particular neighborhood would rent at, although few of them could make a detailed analysis of the replacement cost for the same building, so that the average owner when he received his assessment notice, based on rental capitalization, could very quickly make up his mind whether it was fair under all the circumstances.

Also as I pointed out above, rentals very quickly reflect changes in neighborhoods, and I suggest that using the rental capitalization method the Assessment Roll would quickly adjust itself year after year to changes in neighborhoods, changes in values occasioned by change in public acceptance of certain types of building, and other factors of a like nature, so that the periodic re-assessment of municipalities with all attendant expense and unpleasantness would be avoided. In its place would be a gradual change from year to year, and assessments would, on the whole, bear a truer relationship to each other.

long-term leases

There is, of course, the problem of overbuilding where a residence of very great cost is erected in a small community, or for some other reason has little market value, so that the assessment under rental capitalization on a very expensive piece of property might occasionally be exceedingly low. It might be necessary to make some adjustment to deal with such a situation, although I feel this problem is sometimes over emphasized, and if the underlying concept that the true value of any property in its income producing potential is accepted, then the mere fact that an individual has large sums of money in an unproductive, or potentially unproductive enterprise or building, is basically no reason why he should be compelled, through his taxes, to pay for his folly indefinitely.

Another difficulty, of course, would arise in Urban communities with vacant lands, which in their unbuilt condition would have a very low rental value, and so a low assessment and tax. Such property might be held by speculators for many years to the detriment of the development of the community.

The other problem, to which I have referred, which I think creates both great injustice within the community, and also is at the root of the problem of municipal economy and efficiency, is the fact that contrary to all other systems of taxation, municipal taxation bears most heavily on those owners at the bottom of the economic ladder. Let me give an example: Assume an Old Age Pensioner, Widow, living in a little house, which with its lot would be assessed at about $1,800.00. She is largely dependant on Old Age Pension, plus probably some help from relatives and a little from other sources, ending up with an annual income of normally $1,000.00 per year.

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At a 63 Mill Tax rate she would be paying on her $1,800.00 assessment about $113.00 taxes a year. We can then take another case of a man, a business leader in the community, with a very fine residence assessed at approximately $13,000.00. On a tax rate of 63 mills he will be paying a total of $819.00 taxes a year, but has an income of approximately $25,000.00. The Old Age Pensioner's taxes represent approximately 11% of her total annual income. In the second case, the municipal taxes paid represent a little better than 3% of the annual income of the individual. The above case is admittedly extreme, but not improbable. Examples could be found in most municipalities.

I have not the resources to investigate the statistics of what I am about to say, but your Committee could no doubt very quickly have a complete analysis made, which would establish affirmatively whether my observations are in general correct or not. However, from personal observation, I would be of the opinion that the third of the property owners of this Province, who have the lowest income, pay a much greater percentage of those incomes into municipal coffers than do the other two-thirds with higher incomes. It is not necessary to elaborate the point that, of course, those with lower total income also have much lower disposable incomes, and the impact of taxation is greater on them.

I would propose that a procedure, somewhat like that of the Income Tax graduated schedules, might be applied in the municipal field to residential and farm property. The schedule, which I am proposing, is admittedly taken out of the air, with no statistical analysis to back it, and is advanced for purposes of argument and example only. If there is any merit in my suggestions, of course, the various brackets will have to be arrived at, after much more careful analysis than I can give. However, for purposes of illustration I would suggest a maximum tax of 20 mills on the first $2,000 worth of assessment; A maximum tax of 35 mills on the next $1,000 of assessment, and a maximum of 40 mills on the next $2,000, and thereafter no ceiling. I would suggest local improvement rates which, of course, are attributable directly to the property, should continue to be collected as at present. Debt retirement makes a problem, and I would suggest that it would probably be desirable that tax for Debenture payments be levied as at present across the whole assessment, and that the graduating principal should not be applied to that part of the tax rate attributable to the retirement of debt. This is a feature that I would like to see further discussed before making a final recommendation.

I realize that some may feel that such a system is too complicated for some municipal offices to handle. Fifteen or twenty years ago this criticism would have been correct. To-day municipal offices, faced with multitudinous government returns,

salary deductions, apportioning of government grants and other matters, are much more sophisticated than they once were. To-day even the smallest municipality is potentially faced with the problem of getting out four tax rates, namely, Public School Supporter - Residential, Public School Supporter - Commercial, Separate School Supporter - Residential, Separate School Supporter - Commercial, so that all municipal offices are infinitely better equipped and staffed than they were a few years ago.

The other argument that might be advanced against this proposition is that it would in effect subsidize the slum landlord, and encourage the development of sub-standard housing. I think this problem is easily handled. By making the exemption, or rather the graduated principal applicable only to owner occupied properties. I believe that far from subsidizing slum landlords this particular system, coupled with the rental factor, will result in his paying considerably higher taxes to the municipality than he does under the present system. For example: Returning to the Old Age Pensioner, to whom I earlier referred. At the moment she pays approximately $113.00 taxes a year. The property in question would probably rent somewhere between $25.00 or $30.00 a month. Using the rental capitalization method of assessment, and maximum rental value of $30.00, her assessment would actually be doubled to $3,600.00. At first glance it seems a small favour has been done her. However, when you apply in her case the graduated principal of taxes, you find that her total tax would amount to $99.00, which is somewhat of a reduction from her present tax, but more important, she now has the advantage of a ceiling, above which her taxes cannot go. On the other hand, if the same property were owned by a landlord, and rented at the same rental of $30.00 a month, once again the assessment would increase to $3,600.00, but he paying full tax on say a rate of 63 mills, without any graduated principal being applied, would end by paying over $200.00 taxes to the municipality, so that under the suggested system this class of business, which is certainly exceedingly profitable, and dependant on municipal services for its existence, would be paying a substantially higher proportion of its profits into the municipal corporation.

I also suggest that if the two proposals advocated above were adopted, it would then be logical to repeal the present sections of the Assessment Act dealing with Business Tax. I have never read the history of this tax, but from internal evidence it appears to be an early effort to deal with the problems which I have raised in this Brief, namely, the recognition that the income producing ability of the property has something to do with the amount of tax it should pay, and also apparently an attempt to bring into play the principal of ability to pay. Businesses were graduated apparently at that time with those which were believed to be the most profitable, having the highest rate of tax. For instance, Distillers with 150%. Wholesalers

75%, whereas Retailers may be taxed as low as 25%.

If the procedures, which I advocated, are adopted then it would appear that the principal of income production as a basis of taxation will be incorporated in the rental factor, and the householder is already protected under the graduated principal from undue taxation. So it would appear hardly logical or equitable that commercial establishments should any longer be required to pay Business Tax.

In the same way, at the moment the Provincial Government is trying to protect the householder by paying grants, which can only be applied toward the reduction of his rates, and not on commercial or industrial rates. It would once again seem that if the system I advocate were adopted there would be no logical reason why Governmental grants should not be applied across the whole of the tax rate of the municipality, without exception.

I have been asking for the graduated principal on humanitarian grounds, but there is another important factor, possibly even more important, that only those who have had experience in municipal affairs realize. I believe that the adoption of the graduated principal of taxation would result in greatly increased efficiency in municipal government. Councils are frequently criticized, especially by business men, that they are penny wise and pound foolish, that they tend to look at the immediate cost and not at the long term benefit; that they put off necessary works for long period of time, which frequently result in greater costs in the long run. There is some validity in these criticisms, although not nearly as much as the inexperienced critics believe. But those who make them do not realize the fact that haunts the minds of men in municipal life, that is, the effect of the imposed burdens on those at the lower end of the income brackets. Those who are actively engaged in municipal life find they have no way under the present setup to shelter from the full impact of taxation those at the lower end of the income scale, where very slight increase in taxation means real suffering. They see as clearly as the critic what should be done, but they see what he does not see, that there are large groups in the community who will have to be taxed for some of those projects, and who personally will reap such a small portion of the benefit, that it cannot begin to compensate them for what they have paid.

If a Council were to pursue the policy of their critics, every year, the tax sale list would be infinitely longer. It is not melodramatic, but a simple statement of truth to say that where the Mayor signs the sale warrant, or for that matter an expropriation by-law, he may, especially if elderly people are concerned whose roots go deep, be also signing a death warrant. Men in active municipal life know this, and are haunted by it, and so are compelled frequently in order to shelter those

least able to pay, to take courses which from a long term point of view may be economically undesirable.

If the principal of the graduated tax were adopted, councils could proceed, knowing that those in the lower brackets were fully insulated from the full impact of their actions, and so the council would be able to frequently do things that they know are necessary, but at the same time will not do for fear of inflicting undue suffering on a section of the community.

I would further suggest that the adoption of these principals would clear the way for a complete reconsideration of the grant structure of the province, and a restoration of municipal autonomy. With councils able to levy their taxes without the fear of destroying those in the lower economic brackets, the way would be clear for a reconsideration of the relationship between the municipality and the Provincial Government. It would be fair to ask the municipalities to finance for themselves, and also to manage by themselves, without governmental supervision a large number of activities. Others should probably be transferred directly to the Provincial Government. One that comes to mind immediately is Administration of Justice. There would still be a number of cases where municipalities and the Provincial Government would by negotiation agree on the proportion to be paid by each in certain joint endeavors. For instance, roads, bridges, etc., which carry large parts of through transportation, which is not the primary responsibility of the municipality. Help for education would, I think, still be needed, but a great mass of subsidies now paid to municipalities, which in turn leads to encroachment by governmental officials on the municipal authority, could be eliminated. Probably some kind of equalization grant, which should be unconditional, could be paid to the municipalities, worked out on their per capita assessment, and the municipality left with a completely free hand to use it for whatever local purposes they require and, of course, to accept the responsibility for such use.

I would suggest that the rental capitalization method of assessment as suggested above would show a truer picture of assessment to populations between different municipalities and the real economic conditions of the municipality, and accordingly their need of assistance.

To sum up, I would suggest that the reforms proposed above should have the following results:

(a) Bring municipal taxation more nearly into harmony with the principal of taxation in all other fields, namely, ability to pay.

(b) By insulating those in lower income groups from the full impact of taxation, allow municipal councils to act in a more efficient and farsighted manner.

(c) Largely eliminate the necessity of periodic re-assessment of a municipality.

(d) Result in greater justice between various sections of the same municipality.

(e) Eliminate the necessity of the present Business Tax.

(f) Simplify Grant procedure.

(g) Lay the basis for a complete reconsideration of the relationship between Municipality and Province, with the ultimate restoration of municipal autonomy.

In the above I have assumed that the use of rental capitalization would be impractical in the case of industrial assessment. However, I would like to hear the views of those more experienced in that field. If it were practical to use rental capitalization for industrial assessment it would, of course, be very desirable to have the same system of assessment used for all properties.